

**In the United States District Court for the
Western District of Oklahoma**

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| Adina Marie Digiantomasso |) | |
| Plaintiff, |) | |
| vs. |) | Case No. 19 CIV 631 C |
| |) | Doc. 35 |
| Andrew M. Saul, |) | |
| <i>Commissioner of</i> |) | |
| <i>Social Security Administration,</i> |) | |
| Defendant. |) | |

Order

Before the Court is Plaintiff's attorney motion for \$10361.75 for attorney fees under 42 U.S.C. § 406b, filed on June 25, 2021. *Doc. 35*. On July 9, 2021, defendant filed its response. Upon consideration of the parties' submissions, the Court makes its determination. In August 2020, this Court entered judgment in favor of Plaintiff, reversing the Administrative Law Judge's denial of disability benefits under the Social Security Act, and remanding for further proceedings. Plaintiff's application for EAJA fees for legal work pursuant to the Equal Access to Justice Act was granted in the amount of \$6420.10 and has been paid by the government.

On remand, Plaintiff was found to have been disabled and entitled to benefits since September 2015. The notice sent by the Commissioner shows back benefits were awarded for \$41447.00. 25% of this amount is \$10361.75. The fee amount requested in Plaintiff's motion is for this amount. Specifically, Plaintiff's counsel moves the Court to approve an award of attorney fees for \$10361.75 under 42 U.S.C. § 406b for a total of 32.9 hours of legal work expended in this action.

Having carefully reviewed Plaintiff's attorney's motion, the Court finds the motion for attorney fees was filed by the deadline set by Court's order extending the time to file for fees. The Court further finds that the award of \$10361.75 is not for more than 25% of the past due benefits Plaintiff was awarded on remand. The award is consistent with reasonable hourly rates of about \$315 an hour for attorney work and \$324 an hour for paralegal work in this contingent case. These hourly rates represent a multiplier of 2.7 for 4.6 hours of paralegal work and a multiplier of .90 for 28.5 hours of legal services rendered by counsel in this action. This is generally consistent with fee awards in other cases and is not inconsistent with the fee contract which is to be given primacy under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002).

Accordingly, the Court GRANTS Plaintiff's attorney's motion for attorney fees under 42 U.S.C. §406(b) and AWARDS fees in the amount of \$10361.75 which should be paid out of the past due benefits withheld for payment of fees. The Commissioner shall release to counsel the funds the agency continues to hold after payment of the fee approved for the agency counsel. After the EAJA fee previously awarded is used to cover the underpayment, the excess EAJA award will immediately be refunded to Plaintiff that counsel is not double paid for the same work. The Social Security Administration shall pay said fee award directly to Steve A. Troutman, of Troutman & Troutman, P.C. who signed the fee contract on behalf of the firm.

IT IS SO ORDERED this 16th day of July 2021.


ROBIN J. CAUTHRON
United States District Judge